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BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DOMINIQUE MASCARY,

Plaintiff,

- against -

GC SERVICE LIMITED PARTNERSHIP,

Defendant.
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ORDER OF DISMISSAL

10-CV-1898-ENV-CLP

VITALIANO, D.J.

On January 31, 2011, Magistrate Judge Pollak issued a Report and Recommendation that plaintiff's complaint be dismissed for failure to prosecute. Neither plaintiff nor defendant objected to the Report and Recommendation within the time prescribed by 28 U.S.C. § 636(b)(1).

In reviewing a magistrate judge's Report and Recommendation, this Court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." *Id.* "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Cheema v. Trans Union L.L.C.*, No. 1:09-cv-00140, 2010 WL 2540309, at *1 (E.D.N.Y. June 17, 2010) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

The Court finds the Report and Recommendation to be correct, well-reasoned, and free of any clear error. Plaintiff commenced this action on April 28, 2010. A summons was issued as to defendant, but was not returned executed. *See* Fed. R. Civ. P. 4(m) ("If a defendant is not served within 120 days after the complaint is filed, the court-- on motion or on its own after notice to the

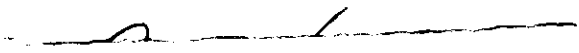

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plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time." On October 18, 2010, Magistrate Judge Pollak entered an order directing the parties to provide the court with a status report within 30 days. On November 29, 2010, having received no such report, Magistrate Judge Pollak directed the parties that the court would recommend that the case be dismissed for lack of prosecution if they did not file the requested status report within 30 days of November 29. To date, no such report has been received from either party.

The Court accordingly adopts the Report and Recommendation in its entirety. It is hereby ordered that the case be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. It is further ordered that the Clerk of the Court mail a copy of this order to all parties and mark the case closed.

SO ORDERED

DATED: Brooklyn, New York
March 19, 2010



ERIC N. VITALIANO
U.S.D.J.